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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/778,661 | 02/06/2001 | Glenn H. Rankin | 10003011-1 | 5477 |

7590 10/23/2002
AGILENT TECHNOLOGIES
Legal Department, 51U-PD
Intellectual Property Administration
P.O. Box 58043
Santa Clara, CA 95052-8043

EXAMINER

CHANG, AUDREY Y

ART UNIT PAPER NUMBER

2872

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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| APPLICATION NO./ CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR / PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
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| EXAMINER |
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Commissioner of Patents and Trademarks

Enclosed please find a supplemental action to indicate the non-responsive amendment filed by the applicant on July 8, 2002.

Audrey Y. Chang
Primary Examiner
Art Unit: 2872

Art Unit: 2872

DETAILED ACTION

Remark

- This Office Action is a *supplemental action* to the previous Office Action dated September 18, 2002.
- This Office Action is in response to applicant's amendment filed on July 8, 2002, which has been entered as paper number 4.
- By this amendment, claims 1-16, and 19-22 have been amended, claims 17-19 have been canceled and claims 23-41 have been newly added.
- Claims 1-16 and 19-41 remain pending in this application.

Response to Amendment

1. The reply filed on July 8, 2002 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the amendment does not fully address the issues concerning originally present claims, (please see the reasons stated below). Please see the reasons stated below. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Election/Restrictions

2. Newly submitted claims 23-41 and newly amended claims 1-16 and 19-22 are directed to an invention that is independent or distinct from the **invention originally claimed** for the following reasons:

Group I: Claims 1-16 and 19-23 have been amended to recite a *vertical cavity surface emitting laser*,

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Group II: Claims 24-41 (newly submitted) are drawn to *semiconductor optical filter*, that are patently distinct from the original subject matter concerning *optical cavity*.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits.

Accordingly, *claims 1-16, and 19 -41* are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Audrey Y. Chang whose telephone number is 703-305-6208. The examiner can normally be reached on Monday-Friday (8:00-4:30), alternative Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on 703-308-1637. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

A. Chang, Ph.D.
October 22, 2002

Audrey Y. Chang
Primary Examiner
Art Unit 2872

